THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 4514 of 1998

Oral order:

Assailing the award dated 06.05.1993, passed by the Labour Court-III, Hyderabad, in I.D. No. 2003 of 1993, insofar as it denied him backwages and attendant benefits, upon the order of his removal dated 03.04.1980, passed by the 2nd respondent, namely Depot Manager, being set aside with a direction to reinstate him with continuity of service, the petitioner filed the present writ petition.

The petitioner joined the service of APSRTC in the year 1997. While so, he was issued charge sheet dated 09.09.1979 for certain cash and ticket irregularities. The petitioner submitted his explanation, but the 2nd respondent, namely the Depot Manager, dissatisfied by the same, ordered an enquiry. The Enquiry Officer, appointed to enquiry into the charges, submitted report holding the petitioner guilty of the charges. Based on the said report, the 2nd respondent, namely the Depot Manager, vide orders dated 03.04.1980 removed the petitioner from service. The appeal preferred by the petitioner to the Divisional Manager, was also dismissed by order dated 08.06.1993. Aggrieved thereby, the petitioner preferred review to the Regional Manager, who by order dated 10.11.1993 rejected the same. The petitioner, therefore, raised an industrial dispute assailing the order of his removal, and the Labour Court, vide reason of the award impugned in this writ petition, set aside the order of removal, and directed the 2nd respondent to reinstate the petitioner with continuity of service, but without attendant benefits and backwages. Hence, the petitioner filed the present writ petition.

Heard the learned counsel for the petitioner and the learned

Standing Counsel for respondent No.2-APSRTC

Though the learned counsel for the petitioner contended that the Labour Court having set aside the order of removal of the petitioner, and having directed his reinstatement with continuity of service, committed an error in denying attendant benefits and backwages, the fact remains, which is evident from the award, the Labour Court has upheld the charges of cash and ticket alleged against the petitioner. However, having regard to the provisions of Section 11-A of the Industrial Disputes Act, 1947, it felt that punishment of removal, in the facts and circumstances as appearing before it were not warranted. Accordingly, while setting aside the order of removal, directed his reinstatement with continuity of service, but as a measure of punishment for the proved charges, the Labour Court denied the petitioner attendant benefits and backwages.

The law is well settled that backwages do not follow as a result of the order of removal or termination being set aside. Grant of backwages is not automatic or mechanical, it depends upon facts and circumstances of each case (See **U.P. State Brassware Corpn. Ltd. v. Uday Narain Pandey**[1]**)**. Since in the case on hand, the attendant benefits and backwages were denied to the petitioner on the ground that the charges levelled against the petitioner were proved, and having regard to the fact that the order of removal passed by the 2nd respondent against the petitioner, as confirmed by the appellate and review authorities, was set aside by taking a lenient view, and the same having not bee set aside on account of any procedural lapses committed by the Enquiry Officer in the conduct of the enquiry or that the enquiry conducted against him was fraught with illegalities or that the disciplinary authority or the appellate authority or the review authority had passed the orders in violation of the principles of natural justice, no exception can be taken to the award of the Labour Court in

denying attendant benefits and backwages to the petitioner while setting aside the order of removal and directing his reinstatement with continuity of service.

There is no merit in the writ petition, and the same is accordingly dismissed. No costs.

N.V. RAMANA, J.

Date: 14th March, 2007
KSR

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[1] (2006) 1 SCC 479